

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 09 MAY 2005

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Applicant's or agent's file reference P144WO 01	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US03/41022	International filing date (day/month/year) 22 December 2003 (22.12.2003)	Priority date (day/month/year) 19 December 2003 (19.12.2003)
International Patent Classification (IPC) or national classification and IPC IPC(7): G01N 35/00, 35/02, 1/10, 15/06; B32B 5/02; B01L 3/02; G05B 21/00; G01M 1/38 and US Cl.: 436/43, 46-48, 180; 422/62-63, 67, 68.1, 100; 700/266, 275		
Applicant DAKOCYTOMATION DENMARK A/S		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of ___ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of report with regard to novelty, inventive step and industrial applicability
- IV ☒ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand

15 July 2004 (15.07.2004)

Date of completion of this report

31 March 2005 (31.03.2005)

Name and mailing address of the IPEA/US

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Form PCT/IPEA/409 (cover sheet)(July 1998)

I. Basis of the report**1. With regard to the elements of the international application:***

- ☒ the international application as originally filed.
- ☒ the description:
pages 1-36 as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☒ the claims:
pages 37-73, as originally filed
pages NONE, as amended (together with any statement) under Article 19
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☒ the drawings:
pages 1-11, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☐ the sequence listing part of the description:
pages NONE, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

IV. Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees the applicant has:

- ☐ restricted the claims.
☒ paid additional fees.
☐ paid additional fees under protest.
☐ neither restricted nor paid additional fees.

2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention is accordance with Rules 13.1, 13.2 and 13.3 is

- ☒ complied with.
☒ not complied with for the following reasons:

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. In order for all inventions to be examined, the appropriate additional examination fees must be paid.

Group I, claim(s) 1-41, drawn to a method of automated sample processing.

Group II, claim(s) 42-81, drawn to an automated sample processing system.

Group III, claim(s) 83-223, drawn to a method of automated sample processing.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I does not require the special technical feature of the Group II that is a first and second sample and a slide processing system.

The inventions listed as Groups I and III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group III does not require the special technical feature of the Group I that is a first and second stand alone processing systems.

The inventions listed as Groups II and III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group III does not require the special technical feature of the Group II that is a first and second sample and a first and second slide processing systems.

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- ☒ all parts.
☐ the parts relating to claims Nos. _____

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. STATEMENT**

Novelty (N)	Claims <u>1-223</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>1-223</u>	YES
	Claims <u>NONE</u>	NO
Industrial Applicability (IA)	Claims <u>1-223</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1-203 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest a method of using an automated sample processing system comprising a first sample, a first stand alone automated slide processing system having a first robotic motion system to which said first sample is responsive; a second sample; a second stand alone automated slide processing system having a second robotic motion system to which said second sample is responsive; an isolated electrical connection among said first stand alone automated sample processing system and said second stand alone automated sample processing system; a first automated process functionality to which said first robotic motion system is responsive; and a second automated process functionality to which said second robotic motion system is responsive.

The prior art further fails to suggest a method of automated sample processing comprising the steps of establishing an automated sample processing system having an automated process operation capability that causes automated process operation events through robotic sample process functions; transiently activating a remote information link with said automated sample processing system; transferring sample process information through said remote information link; and automatically pressing at least one sample through operation of said robotic sample process functions.

Claims 1-223 the criteria set out in PCT Article 33(4), and thus meet industrial applicability because the subject matter claimed can be made or used in industry.

NEW CITATIONS